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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/755,349	01/05/2001	Donald E. Woodmansee	9038-120000	3971

7590

04/10/2003

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EXAMINER

PERRIN, JOSEPH L

ART UNIT

PAPER NUMBER

1746

6

DATE MAILED: 04/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/755,349

Applicant(s)

WOODMANSEE ET AL.

Examiner

Joseph Perrin, Ph.D.

Art Unit

1746

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 05 March 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 1-10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Examiner's Comments***

1. In view of applicant's amendment/response filed 05 March 2003, the status of the application is as follows:

The restriction of the inventions of Group I (claims 1-10) and Group II (claims 11-19) is maintained.

The claim objection of claim 19 is withdrawn in view of applicant's amendment to the claim.

The claim rejections of claims 11-19 under 35 U.S.C. § 112, second paragraph, are withdrawn in view of the amendment of claim 11.

The claim rejections of claims 11-12 & 14-18 under 35 U.S.C. § 102 are maintained.

The claim rejections of claims 13 & 19 under 35 U.S.C. § 103 are maintained.

### ***Election/Restrictions***

2. Applicant's election with traverse of Group II, claims 11-19 in Paper No. 4 is acknowledged. The traversal is on the ground(s) that "the requisite serious burden on the Examiner...does not appear to exist". This is not found persuasive because applicant has not provided "appropriate showings or evidence" as to why restriction is improper, as required by MPEP § 803. Merely taking the opposite position of the Examiner is not considered evidence. As clearly shown in the restriction requirement of

the previous Office action, it would be a burden on the Examiner to search for the specifics for each Group since they are not even required for each group.

The requirement is still deemed proper and is therefore made FINAL.

***Claim Rejections - 35 USC § 102***

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 11-12 and 14-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Landaas.

Recitation of Landaas is repeated here from the previous Office action.

***Claim Rejections - 35 USC § 103***

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Landaas in view of Bergman *et al.*

Recitation of Landaas and Bergman *et al.* is repeated here from the previous Office action.

7. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Landaas in view of Bartos *et al.*

Recitation of Landaas and Bartos *et al.* is repeated here from the previous Office action.

### ***Response to Arguments***

8. Applicant's arguments filed 05 March 2003 re claims rejections under 35 U.S.C. §§ 102 & 103 have been fully considered but they are not persuasive.

### ***Rejections under 35 U.S.C. §102***

9. Re claims 11, 12 and 14-18, applicant argues that "Landaas does not disclose the claimed cleaning gas accumulator." This is not persuasive because the recitation of a "gas accumulator" with the intended use of "retaining a cleaning gas", when given the broadest reasonable interpretation, reads directly on any conventional gas source which may "retain a gas", which clearly does not patentably distinguish the present invention over the prior art of record since the prior art of record inherently must use a means for retaining a cleaning gas. For instance, any conventional means for retaining a cleaning gas would read on applicant's claims, such as a gas source connected to a gas line controllable by a valve.

10. Moreover, applicant argues that "Landaas does not teach combining the cleaning gas with liquid droplets as required by claim 11." This is not persuasive because applicant is claiming a "mixing chamber" and not the intended use of "combining" a gas

and a liquid. It is well established that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

11. Re claim 14, applicant argues that Landaas does not disclose the claimed "heat exchanger". However, given the broadest reasonable interpretation, the expansion separator of Landaas reads directly on the claimed "heat exchanger", since both condense liquid and particulate matter from gas/liquid mixtures, and thus, clearly are not patentably distinguishable.

*Rejections under 35 U.S.C. §103*

12. Re claims 13 and 19, applicant argues that neither Bergman *et al.* nor Bartos *et al.* overcome the "deficiencies of the Landaas of not disclosing a gas accumulator or mixing liquid droplets." Since applicant did not specifically state why Bergman *et al.* and/or Bartos *et al.* do not suggest the claimed invention in combination of Landaas, the recitation of Landaas, as cited above, both alone and in combination with Bergman *et al.* or Bartos *et al.* is still deemed proper.

***Conclusion***

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

14. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

15. This application contains claims 1-10 drawn to an invention nonelected with traverse in Paper No. 4. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Perrin, Ph.D. whose telephone number is (703)305-0626. The examiner can normally be reached on M-F 7:30-5:00, except alternate Fridays.

17. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski can be reached on (703)308-4333. The fax phone numbers for the organization where this application or proceeding is assigned are

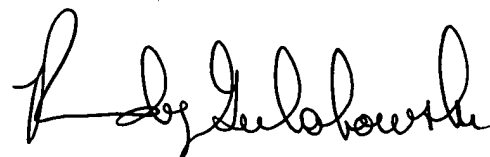
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(703)872-9310 for regular communications and (703)872-9311 for After Final communications.

18. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0661.

Joseph Perrin, Ph.D.  
Examiner  
Art Unit 1746

jl  
April 8, 2003



RANDY GULAKOWSKI  
SUPERVISORY PATENT EXAMINER  
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